

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL A. MARINO, JR.

Appeal No. 2003-1662
Application 09/497,292

ON BRIEF

MAILED

JUL 29 2004

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before THOMAS, BARRY, and SAADAT, Administrative Patent Judges.
THOMAS, Administrative Patent Judge.

REMAND TO THE EXAMINER

Pursuant to 37 CFR § 1.196(a) and the Manual of Patent Examining Procedure (MPEP) § 1211, this application is remanded to the examiner for appropriate action with respect to the items listed below.

The examiner appears to set forth multiple alternative art rejections of a cumulative nature which violate MPEP § 706.02. The examiner has set forth three paired rejections of all claims on appeal under 35 U.S.C. § 103 as to substantially identically included claims among the corresponding six rejections. These single reference rejections under 35 U.S.C. § 103 are set forth along with three identical corresponding rejections additionally relying on appellant's admitted prior art.

The examiner's rationale as to the Clough and Chang references in part appears to be identical relating to radiated emissions and ambient signals as well as the fact that both do not teach a claimed demodulator to reach baseband. Additionally, the rationale with respect to Chang and Mesecher is duplicative in the sense that both do not disclose digitizing the received signals prior to a cancellation step. Thus, there is a common rationale among different pairs of the three single references relied upon as to what their deficiencies are compared to what is claimed, yet no additional prior art is relied upon to fill in or present evidence of obviousness as to the noted deficiencies.

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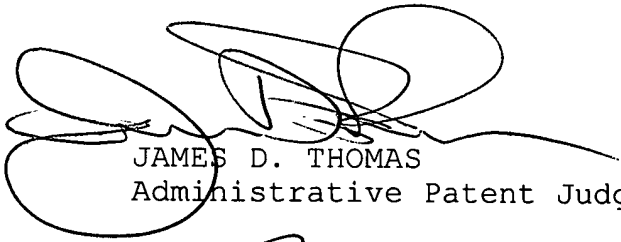
There appears to be no dispute as to any particular interpretation of the claims to justify the reliance upon three separate single reference rejections and their additional combination with appellant's admitted prior art under 35 U.S.C. § 103. Each claim in each respective rejection is also not necessarily treated individually.

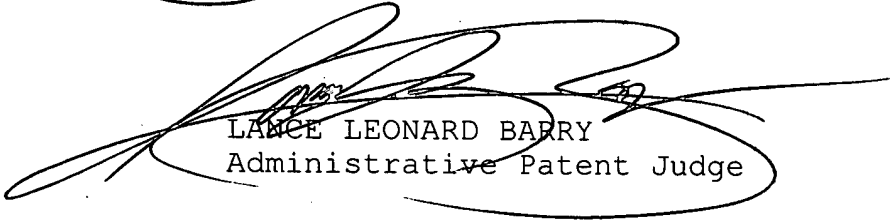
Therefore, in view of the foregoing and in accordance with the above-noted CFR and MPEP citations, this application is remanded to the examiner because there appears to be multiple rejections of a cumulative nature set forth in the Answer. This application is remanded to the examiner for selection of the best grounds of rejection, substantially less than the six presently set forth. The selected grounds of rejection may be recast as the examiner sees fit.

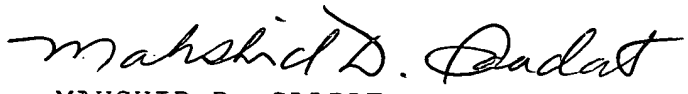
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This application, by virtue of its "special" status, requires immediate attention, see MPEP § 708.01 (Eighth Edition, Rev. 1, February 2003), item (D). It is important that the Board of Patent Appeals and Interferences be promptly informed of any action affecting the appeal in this case.

REMAND


JAMES D. THOMAS
Administrative Patent Judge


LANCE LEONARD BARRY
Administrative Patent Judge


MAHSHID D. SAADAT
Administrative Patent Judge

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Murphey & Murphey, A.P.C.
701 Palomar Airport Road
Suite 260
Carlsbad, CA 92009